

**UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF VIRGINIA**
Alexandria Division

In re:

Belaynsh H. Zewde,
Debtor.

Case No. 11-12351-RGM
(Chapter 7)

MEMORANDUM OPINION

This matter came before the court on April 26, 2011, for a hearing on the Court's Notice to Show Cause why the Debtor's case should not be dismissed for failure to cure the filing fee deficiency. (Docket Entry 12). The debtor and debtor's counsel both failed to appear for the hearing.

This case is the debtor's third filing within 180 days. The first two cases were filed in the Richmond Division. The first case, case number 10-37872-DOT, was filed on November 12, 2011. It was a "bare bones" petition and the clerk's office immediately began issuing notices of deficiencies for the creditors matrix, the unpaid filing fee, and several other missing documents. The Disclosure of Compensation filed with the petition indicates that counsel was paid \$1,500.00 in compensation for this filing. The case was dismissed on November 30, 2011, for failure to file Schedules A-J and the debtor's Statement of Financial Affairs. (Case No. 10-37872, Docket Entry 16).

The second case, case number 11-30740-KRH, was filed on February 4, 2011. Although the filing appears to be otherwise complete, the debtor did not disclose his first petition. The debtor again failed to pay the filing fee. A notice to cure the filing fee deficiency was sent on February 7, 2011. The debtor did not pay the filing fee or request a waiver or an extension of time to pay the fee.

The case was dismissed on February 9, 2011, for failure to cure the filing fee deficiency. (Case No. 11-30740, Docket Entry 5). The Disclosure of Compensation filed with this petition states that counsel was paid \$1,500.00 in compensation for this case.

This case was the debtor's third case. It was filed on March 31, 2011. Unlike the first two, it was filed in Alexandria. The filing appears to be complete, but the debtor did not disclose either of his prior filings. For the third time, the debtor failed to pay the filing fee. A deficiency notice was issued by the Clerk's office on April 1, 2011. The Disclosure of Compensation filed with the petition indicates that counsel was paid \$1,500.00 in compensation for this filing.

In all three cases the debtor's address is in Woodbridge, Virginia. The debtor's principal asset listed on Schedule A in both the second and third cases is real property located in Alexandria, Virginia.¹ The Eastern District of Virginia is the proper venue for all three cases. According to all the petitions, the Alexandria Division was the proper division in which all the cases should have been filed. LBR 1071-1. There is no apparent reason why the debtor filed the first two cases in Richmond and the third in Alexandria.

The same attorney represented the debtor in all three cases.

On April 7, 2011, the Clerk's office issued a notice to show cause why third case should not be dismissed for failure to pay the filing fee. The hearing was set for April 26, 2011. On the morning of April 25, 2011, debtor's counsel called chambers and indicated that he would not be able to attend the hearing because he had a medical condition related to allergies and he had previous travel arrangements.

The show cause hearing will be continued to June 29, 2010 at 9:30 a.m. Counsel should be

¹ Capital One, N.A., scheduled a foreclosure sale for this property for April 1, 2011 at 4:00 p.m. This secured creditor filed a notice of intent to proceed with the foreclosure sale of this property around 4:02 p.m. on April 1, 2011, citing that the automatic stay was not in effect pursuant to section 362(c)(4)(A)(i) because the debtor had filed two cases within the previous year.

prepared to address the debtor's failure to pay the required filing fees; the filing of the petitions in Richmond; the failure to disclose the prior filings; counsel's compensation; and the debtor's and counsel's failure to appear at the last show cause hearing.

Counsel will file a written response addressing these questions on or before May 31, 2010, and include his time records for all three cases.

Alexandria, Virginia
May 12, 2011

/s/ Robert G. Mayer
Robert G. Mayer
United States Bankruptcy Judge

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